IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

THURSDAY, THE 9TH NOVEMBER 2006 / 18TH KARTHIKA 1928

Bail Appl..No. 6304 of 2006()

CRIME NO.232/2006 OF WANDOOR POLICE STATION

PETITIONER/ACCUSED NO.2

SHYLAJA W/O.LATE CHANDRASEKHARAN
MODAVANAD, AMARAMBALAM POST,
NILAMBUR, MALAPPURAM.

BY ADV. SRI.VINOD VALLIKAPPAN

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

*2. T.P.KUNHIMUHAMMED, S/O.KAMMU,
'SANTHIYIL', VANIYAMBALAM AMSOM DESOM,
NILAMBUR TALUK

[(*) ADDITONAL RESPONDENT NO.2 IMPLEADED AS PER ORDER DATED 09/11/2006, IN CRL.M.APPL.NO.6023/2006.]

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN
SRI.K.SHIBILI NAHA FOR R2

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/11/2006, ALONG WITH BA NO.6562/2006 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

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B.A. Nos. 6304/2006 and 6562/2006

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Dated this the 9th day of November, 2006

O R D E R

The petitioners in both these applications are before this Court under Section 438 Cr.P.C, praying that a pre-arrest order may be passed in favour of them, as they apprehend arrest in Crime No.232/2006 of Wandoor Police Station, for they are accused of the offence punishable under Sections 420, 465, 468, 471 and 120B I.P.C., read with Section 34 of the Indian Penal Code.

2. The petitioner in B.A.No.6304/2006 is the second accused and, the petitioner in B.A.No.6562/2006 is the first accused.

3. The prosecution alleges that the second accused had entered into an agreement, for the sale of properties belonging to her, with the de facto complainant, the second respondent, herein. The agreement was not honoured. Therefore, the second respondent demanded the money back. It is alleged that the first accused, who is helping the second

accused, a widow, in her day-to-day dealings, had signed and delivered a cheque, which was issued by the Bank to the second accused, and operated through an account maintained by her. The said cheque was dishonoured. Therefore, the second respondent-complainant, preferred a complaint before court below, which was forwarded under Section 156(3) Cr.P.C.. Accordingly, the Station House Officer of Wandoor Police Station, registered the above crime.

4. When the applications came up for consideration, I have directed the learned Public Prosecutor, Sri.P.N.Sukumaran, to sit with the counsel, Mr.Vinod Vallikappan, appearing for the petitioners, and allow the parties to settle the matter, if the amount due to the de facto complainant could be paid back by the accused.

5. Accordingly, all of them had worked out a settlement. An impleading application, Crl.M.Appl.No. 6023/2006, is preferred by the de facto complainant, praying to implead him as the second respondent. The counsel for the complainant has stated in the application that the de facto complainant, had received an amount of Rs.4,30,000/-, and thus

the entire amount, as settled had been received by the de facto complainant from the accused.

6. As the entire matter is thus settled to the satisfaction of both sides, the matter could be closed, submits the counsel for the petitioners.

7. Mr.Shibili Naha, counsel for the second respondent, submits that the entire amount had been received by the complainant. The further submission of the counsel for the petitioners is that direction may be given to the prosecution to refer the crime by the Investigating Officer and report to the court, as the transaction had been closed.

8. The learned Public Prosecutor submits that he had instructions from the Investigating Officer of Wandoor Police Station, about the settlement of the matters between the parties and, further instructions shall be passed, in the light of this order for closing the matter according to the procedure.

9. In the above facts situation and in the light of the discussions held above, it is hereby directed that in the event of the arrest of the petitioners, accused 1 and 2, in connection with Crime No.232/2006 of Wandoor Police Station, they shall be

released on bail, on each one of them executing a bond for Rs.10,000/-, with two solvent sureties, each for the like sum, to the satisfaction of the Investigating Officer, arresting them.

10. As the parties have settled the dispute, the Investigating Officer shall proceed and complete the matter according to the Criminal Procedure Code.

The applications are disposed of, accordingly.

(J.M.JAMES)
Judge

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